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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,475	06/19/2006	Simon Garry Moore	JAMES114.001APC	8398
20995 7590 08/22/2008 KNOBBE MARTENS OLSON & BEAR LLP 2040 MAIN STREET FOURTEENTH FLOOR IRVINE, CA 92614			EXAMINER GARCIA, ERNESTO	
			ART UNIT 3679	PAPER NUMBER
			NOTIFICATION DATE 08/22/2008	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

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<b>Office Action Summary</b>	<b>Application No.</b> 10/562,475	<b>Applicant(s)</b> MOORE, SIMON GARRY	
	<b>Examiner</b> ERNESTO GARCIA	<b>Art Unit</b> 3679	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 July 2008 and 21 December 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) 2-4, 6 and 11-22 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 5 and 7-10 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 December 2005 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>12/21/05</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Response to Amendment***

The examiner has noticed that the applicant has voluntarily withdrawn claims by indicating their status being --(withdrawn)--. Applicant is reminded that only the examiner can withdraw claims. Accordingly, the status identifiers utilized by applicant are not correct since claims have yet to be withdrawn by the examiner.

### ***Election/Restrictions***

Applicant's election of Group I and Species J, claims 1-11, 15-19, and 21 in the reply filed on July 10, 2008 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

Applicant argues that species K, Figure 14, is merely an extension of the article shown in Figure 12 and does not represent a separate species. In response, the examiner is not persuaded since Figure 14 is not an "extension" of the securing apparatus shown in Figure 12. In the contrary, Figure 12 is an "extension" of Figure 13 as feature 44 is the part that makes the extension. Figure 14 is another species that has an arcuate slot not required in Figures 12 and 13. Further, applicant has not

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admitted on record that Figure 14 is an obvious variant of the species shown in Figures 12 and 13. Until applicant admits on record that Figure 14 is an obvious variant of the elected species, then the examiner will join Figure 14 with the elected species.

Applicant argues that claim 2 should be included on the basis that the apparatus shown in Figures 12 and 13 could be permanently fixed to part of an article. In response, the intended purpose could be so; however, this claim does not read on the elected species as no article is present.

Claims 2, 3, and 11-22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention and species, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on July 10, 2008.

With regards to the withdrawal of claim 3, the elected species J, Figures 12 and 13, does not have an article that is adjustable in length and therefore the claim does not read on this species. With regards to the withdrawal of claim 6, the elected species J does not have a stress reducing device 17. See page 14, lines 4-5, which describes species B, having a stress reducing device 9 (*should be* 17). With regards to the withdrawal of claim 11, the securing apparatus is not constructed as part of an article to which at least one other article can be secured. Claim 11 reads on species B and no article is present in species J. With regards to the withdrawal of claims 15 and 16, the

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elected species J does not contain at least one article and thus does not read on elected species. With regards to the withdrawal of claim 17, the elected species J does not have a releasing tool inserted within the aperture as claimed. With regards to the withdrawal of claim 18, elected species J does not have a releasing tool inserted and partially rotated within the aperture as claimed. With respect to claims 19 and 21, applicant indicates that this reads on the elected species. In response, claims 19 and 21 are part of the second Group II not elected.

### ***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in New Zealand on June 24, 2003. It is noted, however, that the foreign priority document does not correspond to the invention being applied for.

### ***Drawings***

The drawings are objected to because the solid black shading in Figure 1 is not permitted. See 37 CFR 1.84(m). The different views in Figure 1 should be broken into different figures and each labeled accordingly. The different view in Figures 2, 4-11 and 15 should also be separated. One of the two lead lines of reference character "3" in Figures 2 and 4 should be deleted as there is only one aperture 3. The lead line of reference character "7" in the first view of Figure 2 should be spaced away from the

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hidden lines to depict the non-aperture section rather than the axial opening shown by the hidden lines. The solid vertical line adjacent the side slot in the third view in Figure 2 is misleading and it is unclear what solid line represents. It appears the line should be shown with hidden lines to show that a shoulder is shown hidden. The enlarged view in Figures 3, 7, 10, and 15 must each be labeled as separate views. See 37 CFR 1.84(h)(2). The cross-hatching in Figure 9 is misleading. Is the cross-hatching showing glass? If not, then the corresponding cross-hatching should be shown correctly. The cross-hatching in Figures 10 and 11 is not clearly visible. The lead line of reference character 32 should be depicted with an arrow to show the tool as a whole.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “3” has been used to designate an aperture without a stress reducing device and having a round cross-section (Figure 2), an aperture with a stress reducing device 17 (Figure 3), an aperture with curved ends (Figure 4), and another aperture with a square cross-section (Figure 5)

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “10” has been used to designate a threaded section with a first configuration (Figure 4) and another threaded section with a second configuration (Figure 5).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(4) because reference character “44” has been used to designate another end 44 with a first configuration in Figure 12, another end with a second configuration (Figure 13), and another end with a third configuration (Figure 14).

The drawings are objected to because ends of the broken line of the plane upon which sectional view, i.e., the second view in Figure 6, is taken should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view. See 37 CFR 1.84(h)(3) and MPEP 608.02(e). Given that this is corrected the extraneous text “A-A” in Figure 6 should be deleted. The same applies to Figures 10, 11 and 15.

Further, the plane upon which sectional view is taken in Figure 9 should be indicated on the view from which the section is cut by a broken line. The ends of the broken line should be designated by Arabic or Roman numerals corresponding to the view number of the sectional view, and should have arrows to indicate the direction of sight. See 37 CFR 1.84(h)(3) and MPEP 608.02(e).

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description: “9” as described on page 14, lines 4-5.

The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they include the following reference character(s) not mentioned in the description: "28" and "29" shown in Figure 11.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended". If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the examiner does not accept the changes, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

### ***Specification***

The disclosure is objected to because of the following informalities:



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on page 3, line 6, the heading should be --Summary of the Invention--; and,  
on page 16, line 8, "hinge pin (39)" should be --hinge pin (27)--. Appropriate correction is required.

### ***Claim Objections***

Claims 1 and 10 are objected to because of the following informalities:  
regarding claim 1, line 6, "which it is" in line 3 should be --be--, and "the operation" in line 6 should be --operating--; and,  
regarding claim 10, "the" in line 1 should be deleted and dimension have not been previously recited thus lacking antecedent basis and "it" in line 3 should be defined. Appropriate correction is required. For purposes of examining the instant invention, the examiner has assumed these corrections have been made.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 5, and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Moore, WO03/008048.

Regarding claim 1, Moore discloses, in Figure 12, a securing apparatus comprising a deformable body **22** and an aperture 24 within the body **22**. The aperture is configured to accept a releasing tool **23**. The securing apparatus is only unlocked by operating the releasing tool **23** with respect to the body **22** and remains locked at all other times. Applicant is reminded that the body **22** is configured to provide a secure interference fit with at least one article to be fitted.

Regarding claim 5, the body **22** contains at least one slot **25** substantially perpendicular to the aperture and which bisects at least one side of the aperture.

Regarding claim 7, the body **22** contains a plurality of apertures **17**, **25**.

Regarding claim 8, the securing apparatus is configured to secure articles **5**, **8** each of which can be released individually.

Regarding claim 9, the securing apparatus is configured so that absent the releasing tool from the aperture ensures that the securing device is in a locked position by default.

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Regarding claim 10, dimensions of the body **22** when the releasing tool is not operated are such that the securing apparatus cannot be connected to the article to be secured.

Claims 1, 5, 9, and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Rice, Jr., 3,867,049.

Regarding claim 1, Rice, Jr. discloses, in Figures 1-6, a securing apparatus comprising a deformable body **11** and an aperture (features **29** and **31** make the aperture; Figure 6) within the body **11**. The aperture is configured to accept a releasing tool **23**. The securing apparatus is only unlocked by operating the releasing tool **23** with respect to the body **11** and remains locked at all other times. Applicant is reminded that the body 11 is configured to provide a secure interference fit with at least one article to be fitted.

Regarding claim 5, the body **11** contains at least one slot **17** substantially perpendicular to the aperture and which bisects at least one side of the aperture.

Regarding claim 9, the securing apparatus is configured so that absent the releasing tool from the aperture ensures that the securing device is in a locked position by default (note this would inherently happen when the tool is removed using a tool similar to the Allen-shaped configuration; col. 6, lines 9-15).

Regarding claim 10, dimensions of the body **11** when the releasing tool is not operated are such that the securing apparatus cannot be connected to the article to be secured.

Claims 1, 5, and 7-10 are rejected under 35 U.S.C. 102(b) as being anticipated by Bauman, 1,902,751.

Regarding claim 1, Bauman discloses, in Figure 1-4, a securing apparatus comprising a deformable body **1** and an aperture **5** within the body **1**. The aperture **5** is configured to accept a releasing tool **7**. The securing apparatus is only unlocked by operating the releasing tool **7** with respect to the body **1** and remains locked at all other times. Applicant is reminded that the body **1** is configured to provide a secure interference fit with at least one article to be fitted.

Regarding claim 5, the body **1** contains at least one slot **4** substantially perpendicular to the aperture **5** and which bisects at least one side of the aperture.

Regarding claim 7, the body **1** contains a plurality of apertures **5**.

Regarding claim 8, the securing apparatus is configured to secure articles **3** each of which can be released individually.

Regarding claim 9, the securing apparatus is configured so that absent the releasing tool from the aperture ensures that the securing device is in a locked position by default.

Regarding claim 10, dimensions of the body 1 when the releasing tool is not operated are such that the securing apparatus cannot be connected to the article to be secured.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rice, Jr., 3,867,049.

Regarding claim 7, Rice Jr., as discussed, fails to disclose contains a plurality of apertures. Applicant is reminded that mere duplication of the essential working parts of a device involves only routine skill in the art. Therefore, it would have been obvious to

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one having ordinary skill in the art at the time the invention was made to duplicate the aperture so that the body expands equally with less force applied to two different tools and two different apertures as compared to using one aperture and one tool. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 8, given the modification, the securing apparatus would have been configured to secure articles each that can be released individually.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ernesto Garcia whose telephone number is 571-272-7083. The examiner can normally be reached from 9:30AM-6:00PM. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Daniel P. Stodola can be reached at 571-272-7087.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.

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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

/E. G./

Examiner, Art Unit 3679

August 23, 2008

/Daniel P. Stodola/  
Supervisory Patent Examiner, Art Unit 3679